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**IN THE COURT OF 11th ADDITIONAL DISTRICT JUDGE,
AT VADODARA.**

Public Trust Application No. 610 of 2024

Exh. - 11

**(An Application under Section 47 of
the Bombay Public Trusts Act, 1950)**

Applicant:

Shri Rajendra S. Harpale, Managing Trustee of
Prof. Manekrao's Shri Jummadada Vyayam Mandir,
The registered trust having its registration No.E-1267,
Having its address at:- Vitthal Krida Bhavan, Dandia Bazar, Vadodara
Email ID: profmanikraoakhada@gmail.com

// Versus //

Opponent:

The Office of Assistant Charity Commissioner, Vadodara
Having its address at: Fast Track Court Building, Bank of River Vishwamitri,
Behind SSG Hospital, Jail Road. Vadodara

SUBJECT : PETITION UNDER SECTION 47 OF THE GUJARAT PUBLIC TRUST ACT READ WITH SECTION 151, 154 AND 94 OF CODE OF CIVIL PROCEDURE, 1908.

APPEARANCE :

Ld. Advocate Mr. S.A. Chavan, for the applicant.

Ld. DGP Mr. A.M. Desai , for the opponent.

// J U D G M E N T //

(1) The Petitioner most respectfully submits that the present application is filed in respect of Prof. Manekrao's Shri Jummadada Vyayam Mandir Trust (hereinafter referred to as "the Trust"), which was established in the year 1880 and subsequently registered as a Public Trust in the year 1954 under the Gujarat Public Trusts Act bearing Registration No. E-1267. The Trust is one of the oldest public institutions engaged in activities relating to sports, physical training, adventure, and promotion of national values and public welfare, primarily in Vadodara and also at a national level. The Trust has historical significance and has hosted eminent personalities such as Lokmanya Tilak, Rabindranath Tagore and Swatantraveer Savarkar, which demonstrates its legacy and importance.

(1.1) It is submitted that the Trust is governed by its Trust Deed, as per which the number of trustees shall not exceed ten and shall not be less than six. At present, due to resignation and/or demise of earlier trustees, only three trustees remain in office, namely Dr. Vilas Bidye,

Shri Rajendra S. Harpale and Shrimant Samarjitsinh Ranjitsinh Gaekwad. The resignation of trustees including Shri Suhas Khopkar, Shri Prashant Pradhan and Shri Shripad Deshpande and cessation of earlier trustees is duly reflected in the Public Trust Register and supporting documents annexed with the present application. As a result, the number of trustees has fallen below the minimum prescribed under the Trust Deed, thereby affecting proper administration, decision-making, and quorum requirements of the Trust.

In these circumstances, the Petitioner has invoked the jurisdiction of this Hon'ble Court under Section 47 of the Gujarat Public Trusts Act, seeking appointment of additional trustees to ensure proper governance and administration of the Trust. The Petitioner proposes appointment of the following four persons as trustees: **(1) Shri Chirayu Vijaykumar Pandit, aged 40 years, Assistant Professor, residing at 8-A, Star Shelter, Bhayli T.P.1, Vadodara;** **(2) Shri Ketan Junnerkar, aged 65 years, engaged in business, residing at S.F.6 Shivakruti, Dandiya Bazaar, Vadodara;** **(3) Shri Mukesh Ramesh Mane, aged 48 years, in service, residing at B-16, Geeta Park Society, Manjalpur, Vadodara;** and **(4) Shri Avadhoot Vishwanath Sumant, aged 57 years, professional, residing at D-301, Vishranti Greens, Gotri, Vadodara.** The said persons are competent, suitable and willing to act as trustees and have given their consent, which is placed on record.

- (1.2)** It is further submitted that the Trust, being of historical and public importance, has always been managed by eminent and capable

persons and continues to undertake significant activities in the field of sports, physical education and public welfare, with recognition and support from authorities such as the Sports Authority of India and Sports Authority of Gujarat. However, due to the present deficiency in the number of trustees, the administration and growth of the Trust is adversely affected and the functioning of the Trust is likely to suffer. The appointment of additional trustees is therefore necessary to meet the requirements of the Trust Deed, to ensure proper administration, and to safeguard the interests of the Trust and its beneficiaries.

- (1.3) The cause of action for filing the present application has arisen due to resignation and cessation of trustees resulting in vacancies and reduction of trustees below the prescribed minimum, and the same continues as the Trust is unable to function effectively for want of quorum and adequate governance. The present application is bona fide and filed in the larger interest of the Trust, its beneficiaries and public at large.
- (1.4) The Trust is registered within the jurisdiction of this Hon'ble Court and therefore this Hon'ble Court has jurisdiction to entertain and decide the present application. The requisite court fees have been affixed and the Petitioner undertakes to pay any additional court fees if required. The Petitioner craves leave to rely upon documents, affidavits and legal provisions at the time of hearing and also seeks liberty to amend or modify the present application, if necessary.

- (1.5) It is therefore most humbly prayed that this Hon'ble Court may be pleased to allow the present application and appoint the aforesaid proposed persons as trustees to fill up the existing vacancies in Prof. Manekrao's Shri Jummada Vyayam Mandir Trust and to pass necessary directions for recording such change in the Public Trust Register, and to grant such other and further reliefs as deemed fit in the interest of justice and proper administration of the Trust. The applicant has contended that : The vacancy needs to be filled urgently to ensure proper functioning of the trust, the proposed trustees are competent and willing to act and the appointment is necessary in the interest of the trust. The applicant has therefore prayed for exercise of powers under Section 47 of the Act.
- (2) Upon filing of the present application, notice was issued to the opponent. Despite due service of notice, the opponent has neither appeared before this Court nor filed any reply. In this matter, the learned District Government Pleader, Mr. Anil M. Desai, has appeared before this Court and has made submissions on behalf of the opponent.
- (3) This Court has heard the learned advocate for the applicant and has carefully perused the entire record. The following point arises for determination of this Hon'ble Court :-
1. Whether, in the facts and circumstances of the present case, the Petitioner has made out a sufficient and lawful ground under Section 47 of the Gujarat Public Trusts Act for appointment of

additional trustees to fill up the existing vacancies in Prof. Manekrao's Shri Jummadada Vyayam Mandir Trust so as to ensure proper administration and compliance with the Trust Deed?

2. What order?

(4) The findings of this court are as under :

1. In Affirmative
2. As per the Final Order.

(5) Documentary Evidence : The applicant has produced the following documentary evidence before this court :

1. True Copy of Trust Deed of Prof. Manikrao's Shri Jummadada Vyayam Mandir Trust Trust.
2. Original Affidavit of Shri Chirayu Vijakumar Pandit Consenting to proposal to act as Trustee.
3. Original Affidavit of Shri Ketan Junnerkar 09.1.24 Consenting to proposal to act as Trustee.
4. Original Affidavit of Shri Mukesh Ramesh Mane Consenting to proposal to act as Trustee.
5. Original Affidavit of Shri Avadhoot Vishwanath Sumant Consenting to proposal to act as Trustee.

6. Copy of change report bearing no.136/23 and order depicting cessation of privity of Trustees namely Upendra Khasgiwale.
7. Copy of PTR Register of Prof. Manikrao's Shri Jummadada Vyayam Mandir Trust Trust.

The aforesaid documents on record clearly establish the existence and due registration of the Trust under the provisions of the Gujarat Public Trusts Act. They further demonstrate that vacancies have arisen in the office of trustees on account of resignation and/or cessation of earlier trustees. The said documents also reflect the present composition of the Trust, indicating that only three trustees are currently in office, thereby substantiating that the strength of the Board of Trustees has fallen below the minimum number prescribed under the Trust Deed.

(6) Affidavit Evidence and Its Evidentiary Value.

The affidavit at Exh. 6 to 8 filed by the existing trustees assume considerable significance. The affidavits filed by the existing trustees, being sworn on oath, collectively affirm that they are duly appointed trustees of the subject Public Trust and are fully conversant with the facts and proceedings of the present petition instituted under Section 47 of the Gujarat Public Trusts Act. The deponents have categorically confirmed and admitted the contents of the petition as true and correct to their knowledge and belief, and have expressed their consent and support to the reliefs sought therein. It is further affirmed that the said affidavits are filed in the nature of examination-in-chief to substantiate and fortify the averments made in the petition and to establish the necessity of granting the relief sought. The deponents have also stated

that the present application deserves to be allowed in the larger interest of the Trust and its proper administration.

The opponent, though duly served, has chosen not to contest the present proceedings. In view of such non-contesting the application, the evidence adduced on behalf of the Petitioner has remained uncontroverted and unrebutted. No material has been placed on record by the opponent to dispute or challenge the averments made in the petition or the evidence produced in support thereof. However, it is a settled principle of law that mere absence of contest does not entitle the Petitioner to an automatic relief, and this Hon'ble Court is duty-bound to independently examine and assess the merits of the case on the basis of the pleadings, evidence on record, and applicable provisions of law before granting any relief. This court has considered the submissions made by the Ld. District Government Pleader Mr. A.M. Desai.

(7) Statutory provision of Section 47 of The Gujarat.

Section 47 of the Gujarat Public Trusts Act confers jurisdiction upon the competent Court to appoint new trustees in circumstances where it is found necessary for the proper administration of a public trust. The exercise of such jurisdiction is conditional upon the existence and satisfaction of certain essential requirements which are required to be carefully examined.

Firstly, there must exist a vacancy in the office of trustee. Such vacancy may arise due to various reasons including death, resignation, removal, disqualification, or otherwise cessation of office of an existing trustee. The existence of such vacancy is a foundational requirement for invoking the jurisdiction under Section 47, as the

provision is intended to ensure continuity in the administration of the trust and to prevent any disruption in its functioning.

Secondly, it must be demonstrated that the said vacancy cannot be effectively filled in accordance with the provisions of the trust deed or the established internal mechanism of the trust. Where the instrument of trust either does not provide a workable procedure for filling such vacancy, or where the existing trustees are unable to act due to insufficiency of their number or lack of quorum, the intervention of the Court becomes necessary. Thus, the inability of the trust to self-regulate or fill the vacancy internally justifies recourse to judicial intervention under the said provision.

Thirdly, the Court must arrive at a judicial satisfaction that the appointment of a new trustee or trustees is necessary for the proper, effective, and efficient administration of the trust. Such satisfaction is not to be exercised mechanically, but upon due consideration of the facts, circumstances, and evidence placed on record, ensuring that the proposed appointment would advance the objects of the trust and serve the interests of its beneficiaries.

While exercising powers under Section 47, the Court is also required to take into consideration certain guiding factors. The intention and wishes of the author or founder of the trust, as reflected in the trust deed, must be given due weightage. The structure, scheme, and governing provisions of the trust are also relevant considerations, particularly with regard to the prescribed number and qualifications of trustees. Further, the administrative necessity, including the requirement of maintaining proper governance, ensuring quorum, and

facilitating smooth decision-making processes, must be evaluated to determine whether such appointment is warranted.

Thus, the power under Section 47 is discretionary but is to be exercised judiciously, with the paramount consideration being the proper administration, continuity, and advancement of the objects of the public trust.

1. Application of Law to Facts

Upon appreciation of the material placed on record, it clearly emerges that vacancies in the office of trustees have arisen in the subject Public Trust. The said fact stands duly established from the documentary evidence including the change report and the entries in the Public Trust Register, which reflect cessation of certain trustees on account of resignation and/or other reasons. Thus, the existence of vacancy, which is a primary requirement for invoking jurisdiction under Section 47 of the Gujarat Public Trusts Act, stands satisfactorily proved.

It further appears that on account of such vacancies, the number of existing trustees has been reduced below the minimum strength prescribed under the Trust Deed. This deficiency has a direct bearing on the administration and governance of the Trust, as the functioning of the Board of Trustees, including decision-making processes, conduct of meetings, and compliance with quorum requirements, is adversely affected. The reduced strength of trustees, therefore, has resulted in practical and administrative difficulties in managing the affairs of the Trust effectively.

Insofar as the suitability of the proposed trustees is concerned, the record indicates that the persons proposed to be appointed have furnished their consent affidavits, thereby expressing their willingness to act as trustees. The said individuals are stated to be persons of competence and standing, and there is nothing on record to suggest that they lack the capacity or eligibility to discharge the duties of trustees in furtherance of the objects of the Trust.

Moreover, no material has been brought on record to indicate any disqualification, incapacity, or adverse circumstance against the proposed trustees which may render them unsuitable for such appointment. In absence of any such disqualifying factor, there is no impediment in considering their appointment for the purposes of filling up the existing vacancies.

It is also pertinent to note that the existing trustees have supported the present application and have expressed their concurrence for appointment of the proposed trustees. Such consensus amongst the existing trustees lends further credence to the bona fides of the present application and reinforces the necessity of constituting a complete and functional Board of Trustees in accordance with the Trust Deed.

In view of the aforesaid findings, this Court is satisfied that the requirements contemplated under Section 47 of the Gujarat Public Trusts Act are duly met and that the appointment of additional trustees is necessary for ensuring proper and effective administration of the Trust.

- (8) Upon careful consideration of the pleadings, documents on record, and the evidence adduced, this Hon'ble Court records its judicial satisfaction that the appointment of additional trustees in the present case is not only justified but necessary for ensuring the proper and effective administration of the subject Public Trust. The material on record clearly demonstrates that the number of existing trustees has fallen below the minimum prescribed under the Trust Deed, thereby creating a situation which is detrimental to the governance and functioning of the Trust. In such circumstances, the intervention of this Court under Section 47 of the Gujarat Public Trusts Act becomes essential to restore the functional integrity of the Trust.
- (10) This Hon'ble Court further finds that the proposed trustees are suitable and appropriate persons for being appointed as trustees. The said individuals have placed on record their respective consent affidavits, thereby expressing their willingness to undertake the duties and responsibilities attached to the office of trustee. There is nothing on record to suggest any disqualification, incapacity, or adverse material against them. On the contrary, their background, standing, and willingness to serve indicate that they are capable of contributing positively towards the objects and administration of the Trust. It is also pertinent to note that the existing trustees have supported the present application and have expressed their concurrence for the appointment of the proposed trustees. Such consensus amongst the existing trustees reinforces the bona fides of the application and indicates that the proposed appointments are in furtherance of the collective interest of the Trust rather than any individual or extraneous consideration.

- (11) This Hon'ble Court is further satisfied that the appointment of the proposed trustees would subserve and protect the interests of the Trust and its beneficiaries. The Trust, being an institution of historical and public importance, requires a duly constituted and adequately staffed Board of Trustees to ensure smooth functioning, proper decision-making, and continued advancement of its objectives. The present deficiency in the number of trustees is likely to hamper its activities and administrative efficiency, which necessitates immediate corrective measures.

In view of the aforesaid, this Hon'ble Court is of the considered opinion that the requirements of Section 47 of the Gujarat Public Trusts Act are fully satisfied, and that the proposed appointments are in the larger interest of the Trust, its beneficiaries, and the public at large. Accordingly, this Court records its judicial satisfaction to grant the relief as prayed for in the present application.

- (12) It is a well-settled principle of law governing public trusts that the administration of such trusts must not be allowed to suffer or come to a standstill on account of vacancies in the office of trustees. A public trust, by its very nature, is created for the benefit of the public or a section thereof, and therefore, its governance must remain continuous, effective, and in conformity with law. Any deficiency in the constitution of the Board of Trustees, particularly where the number falls below the prescribed minimum, is likely to adversely affect the functioning of the trust and defeat its very objectives.

This Hon'ble Court is therefore under a legal as well as equitable obligation to ensure that the continuity of administration of the Trust

is maintained. The existence of vacancies, if left unaddressed, may result in administrative paralysis, inability to convene valid meetings, and failure in taking essential decisions concerning the affairs of the Trust. Such a situation would not only hinder the day-to-day functioning but may also prejudice the long-term objectives and activities of the Trust.

It is further necessary to prevent any possibility of mismanagement or irregular administration which may arise due to the absence of a duly constituted governing body. A properly constituted Board of Trustees ensures checks and balances in decision-making, transparency in administration, and adherence to the objects and provisions of the Trust Deed. In the absence of an adequate number of trustees, the governance structure becomes inherently weak and susceptible to inefficiency or unintended irregularities.

This Hon'ble Court is also required to ensure that the governance of the Trust remains lawful and in strict compliance with the provisions of the Trust Deed as well as the statutory framework under the Gujarat Public Trusts Act. The Trust Deed in the present case clearly prescribes the minimum number of trustees, and such stipulation is not merely procedural but is fundamental to the proper constitution and functioning of the Trust. Therefore, compliance with such requirements is essential and must be enforced.

- (13) In light of the foregoing discussion and upon evaluation of the pleadings, evidence, and applicable law, this Hon'ble Court records its findings that the Petitioner has successfully established the existence of vacancies, the necessity of appointment of additional trustees, and the suitability of the proposed trustees. The Court is further satisfied that the relief sought is in the larger interest of the Trust and its beneficiaries.
- (14) Accordingly, the point for determination is answered in the affirmative, holding that the present application deserves to be allowed and that the appointment of additional trustees is warranted in the facts and circumstances of the case. The application is meritorious and deserves to be allowed.

//FINAL ORDER//

- (1) The application is hereby **allowed**.
- (2) The following persons are appointed as trustees of Shri Jummandada Vyayam Mandir Trust : **(1) Shri Chirayu Vijaykumar Pandit, aged 40 years, Assistant Professor, residing at 8-A, Star Shelter, Bhayli T.P.1, Vadodara; (2) Shri Ketan Junnerkar, aged 65 years, engaged in business, residing at S.F.6 Shivakruti, Dandiya Bazaar, Vadodara; (3) Shri Mukesh Ramesh Mane, aged 48 years, in service, residing at B-16, Geeta Park Society, Manjalpur, Vadodara; and (4) Shri Avadhoot Vishwanath Sumant, aged 57 years, professional, residing at D-301, Vishranti Greens, Gotri, Vadodara.**

- (3) They shall act in accordance with law and Trust Deed.
- (4) The Charity Commissioner shall update PTR.
- (5) No order as to costs.

Signed and pronounced in open Court on this
07th day of **APRIL, 2026.**

Date : 07/04/2026.
Place: Vadodara.

(B.K. DASONDI)
11th Addl. District Judge,
Vadodara.
UID Code No. GJ00924